

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

<b>BILLY JOE COLLINS,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	<b>1:17CV371</b>
<b>v.</b>	)	<b>1:07CR375-4</b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	

**ORDER**

The Order and Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on April 27, 2017, was served on the parties in this action. Petitioner objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's recommendation.

**IT IS THEREFORE ORDERED** that Petitioner's "Rule 60(b)" motion [Doc. #165] be construed as an attempt by Petitioner to file a second or successive § 2255 action.

**IT IS FURTHER ORDERED** that this action be dismissed due to

Petitioner's failure to obtain certification from the Fourth Circuit as required by 28 U.S.C. §§ 2244 and 2255 and Fourth Circuit Local Rule 22(d). A judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 16<sup>th</sup> day of June, 2017.

/s/ N. Carlton Tilley, Jr.  
Senior United States District Judge